

**(c) New grant defined**

For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

**(d) Inapplicability to certain grants**

This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an executive agency and to report on such matters to Congress or any agency of the Federal Government.

(June 30, 1949, ch. 288, title III, §316, as added Pub. L. 103-355, title VII, §7203(b)(2), Oct. 13, 1994, 108 Stat. 3381; amended Pub. L. 104-106, div. D, title XLIII, §4321(e)(9), Feb. 10, 1996, 110 Stat. 675.)

## AMENDMENTS

1996—Pub. L. 104-106 made technical amendment to section catchline in original.

## EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 251 of this title.

## EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of this title.

SUBCHAPTER V—FOREIGN EXCESS  
PROPERTY**§§ 271 to 274. Transferred**

## CODIFICATION

Section 271, act June 30, 1949, ch. 288, title IV, §401, 63 Stat. 397, which related to disposal of foreign excess property, was transferred to section 511 of Title 40, Public Buildings, Property, and Works.

Section 272, act June 30, 1949, ch. 288, title IV, §402, 63 Stat. 398, which related to methods and terms of disposal, was transferred to section 512 of Title 40.

Section 273, act June 30, 1949, ch. 288, title IV, §403, 63 Stat. 398, which related to proceeds from disposals, was transferred to section 513 of Title 40.

Section 274, act June 30, 1949, ch. 288, title IV, §404, 63 Stat. 398, which related to general provisions, was transferred to section 514 of Title 40.

SUBCHAPTER VI—FEDERAL RECORD  
MANAGEMENT**§§ 281 to 291. Transferred**

## CODIFICATION

Section 281, acts June 30, 1949, ch. 288, title V, §502; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to custody and control of property, was transferred to section 392 of former Title 44, Public Printing and Documents.

Section 282, acts June 30, 1949, ch. 288, title V, §503; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to National Historical Publications Commission, was transferred to section 393 of former Title 44.

Section 283, acts June 30, 1949, ch. 288, title V, §504; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to establishment of Federal Records Council, was transferred to section 394 of former Title 44.

Section 284, acts June 30, 1949, ch. 288, title V, §505; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to

records management by Administrator, was transferred to section 395 of former Title 44.

Section 285, acts June 30, 1949, ch. 288, title V, §506; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to records management by agency heads, was transferred to section 396 of former Title 44.

Section 286, acts June 30, 1949, ch. 288, title V, §507; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to Archival administration, was transferred to section 397 of former Title 44.

Section 287, acts June 30, 1949, ch. 288, title V, §508; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to reports, was transferred to section 398 of former Title 44.

Section 288, acts June 30, 1949, ch. 288, title V, §509; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to legal status of reproductions; official seal; fees for copies and reproductions, was transferred to section 399 of former Title 44.

Section 289, acts June 30, 1949, ch. 288, title V, §510; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to limitation on liability, was transferred to section 400 of former Title 44.

Section 290, acts June 30, 1949, ch. 288, title V, §511; Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583, which related to definitions, was transferred to section 401 of former Title 44.

Section 291, act Aug. 2, 1946, ch. 753, title I, §140, 60 Stat. 833, which related to transfer of records of Congress, was transferred to section 402 of former Title 44.

Sections 392 to 402 of former Title 44 are covered by chapter 21 (§2101 et seq.), chapter 25 (§2501 et seq.), chapter 27 (§2701 et seq.), chapter 29 (§2901 et seq.), and chapter 31 (§3101 et seq.) of Title 44, Public Printing and Documents.

CHAPTER 5—JUDICIAL REVIEW OF  
ADMINISTRATIVE DECISIONS

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|------|---|
| Sec. |   |
| 321. | Limitation on pleading contract provisions relating to finality; standards of review. |
| 322. | Contract provisions making decisions final on questions of law.                       |

**§ 321. Limitation on pleading contract provisions relating to finality; standards of review**

No provision of any contract entered into by the United States, relating to the finality or conclusiveness of any decision of the head of any department or agency or his duly authorized representative or board in a dispute involving a question arising under such contract, shall be pleaded in any suit now filed or to be filed as limiting judicial review of any such decision to cases where fraud by such official or his said representative or board is alleged: *Provided, however*, That any such decision shall be final and conclusive unless the same is fraudulent<sup>1</sup> or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence.

(May 11, 1954, ch. 199, §1, 68 Stat. 81.)

## AGENCY ACTIONS GENERALLY, JUDICIAL REVIEW

Judicial review of agency actions generally, see section 701 et seq. of Title 5, Government Organization and Employees.

**§ 322. Contract provisions making decisions final on questions of law**

No Government contract shall contain a provision making final on a question of law the deci-

<sup>1</sup> So in original. Probably should be "fraudulent".

sion of any administrative official, representative, or board.

(May 11, 1954, ch. 199, § 2, 68 Stat. 81.)

## CHAPTER 6—SERVICE CONTRACT LABOR STANDARDS

- Sec.  
351. Required contract provisions; minimum wages.  
352. Violations.  
    (a) Liability of responsible party; withholding payments due on contract; payment of underpaid employees from withheld payments.  
    (b) Enforcement of section.  
    (c) Cancellation of contract; contracts for completion of original contract; liability of original contractor for additional cost.  
353. Law governing authority of Secretary.  
    (a) Enforcement of chapter.  
    (b) Limitations and regulations allowing variations, tolerances, and exemptions.  
    (c) Predecessor contracts; employees' wages and fringe benefits.  
    (d) Duration of contract.  
354. List of violators; prohibition of contract award to firms appearing on list; actions to recover underpayments; payment of sums recovered.  
355. Exclusion of fringe benefit payments in determining overtime pay.  
356. Exemptions.  
357. Definitions.  
358. Wage and fringe benefit determinations of Secretary.

### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 25 section 450j; title 29 sections 206, 653.

### § 351. Required contract provisions; minimum wages

(a) Every contract (and any bid specification therefor) entered into by the United States or the District of Columbia in excess of \$2,500, except as provided in section 356 of this title, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States through the use of service employees, shall contain the following:

(1) A provision specifying the minimum monetary wages to be paid the various classes of service employees in the performance of the contract or any subcontract thereunder, as determined by the Secretary, or his authorized representative, in accordance with prevailing rates for such employees in the locality, or, where a collective-bargaining agreement covers any such service employees, in accordance with the rates for such employees provided for in such agreement, including prospective wage increases provided for in such agreement as a result of arm's length negotiations. In no case shall such wages be lower than the minimum specified in subsection (b) of this section.

(2) A provision specifying the fringe benefits to be furnished in the various classes of service employees, engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative to be prevailing for such em-

ployees in the locality, or, where a collective-bargaining agreement covers any such service employees, to be provided for in such agreement, including prospective fringe benefits increases provided for in such agreement as a result of arm's-length negotiations. Such fringe benefits shall include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor. The obligation under this subparagraph may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the Secretary.

(3) A provision that no part of the services covered by this chapter will be performed in buildings or surroundings or under working conditions, provided by or under the control or supervision of the contractor or any subcontractor, which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish the services.

(4) A provision that on the date a service employee commences work on a contract to which this chapter applies, the contractor or subcontractor will deliver to the employee a notice of the compensation required under paragraphs (1) and (2) of this subsection, on a form prepared by the Federal agency, or will post a notice of the required compensation in a prominent place at the worksite.

(5) A statement of the rates that would be paid by the Federal agency to the various classes of service employees if section 5341 or section 5332 of title 5 were applicable to them. The Secretary shall give due consideration to such rates in making the wage and fringe benefit determinations specified in this section.

(b)(1) No contractor who enters into any contract with the Federal Government the principal purpose of which is to furnish services through the use of service employees and no subcontractor thereunder shall pay any of his employees engaged in performing work on such contracts less than the minimum wage specified under section 206(a)(1) of title 29.

(2) The provisions of sections 352 to 354 of this title shall be applicable to violations of this subsection.

(Pub. L. 89-286, § 2, Oct. 22, 1965, 79 Stat. 1034; Pub. L. 92-473, §§ 1, 2, Oct. 9, 1972, 86 Stat. 789; Pub. L. 94-489, §§ 1, 2, Oct. 13, 1976, 90 Stat. 2358.)

### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-489, § 1(a), struck out "as defined herein" after "use of service employees".

Subsec. (a)(5). Pub. L. 94-489, § 2, inserted "or section 5332" after "section 5341".

Subsec. (b)(1). Pub. L. 94-489, § 1(b), struck out "as defined herein" after "use of service employees".

1972—Subsec. (a)(1). Pub. L. 92-473, § 1(a), provided for minimum monetary wages to be paid service employees